

# Memorandum

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FEDERAL MARITIME COMM

**TO** : Bryant L. VanBrakle, Secretary

**DATE:** Jan. 22, 2004

**FROM**  : Harold J. Creel, Jr., Commissioner

**SUBJECT** : Petitions Nos. P3-03, P5-03, P7-03, P8-03, and P9-03

On January 13, 2004, I met with representatives of the National Industrial Transportation League ("NITL") to discuss the above-referenced petitions for relief currently pending before the Commission. The NITL representatives included: Peter J. Gatti, Jr., Executive Vice President; Nicholas J. DiMichael, Esq. and Karyn A. Booth, Esq., Counsel to NITL. Also present was my counsel, David R. Miles.

The NITL representatives made the following points:

Since 1999, there have been major changes in the ocean transportation industry. The role of logistics companies has grown considerably. In addition, several ocean carriers have formed their own logistics subsidiaries.

As far as their members are concerned, the Ocean Shipping Reform Act of 1998 ("OSRA") has been a major success. However, Congress nonetheless built flexibility into OSRA to deal with changes in the industry. The Commission's exemption authority under section 16 is now broader, and as a result, the Commission has the power to override Congress.. If the Commission looks at the exemption standards, they have been met by petitioners.

NITL supports service contracting for all NVOCCs. The Commission must thus develop a standard for all, not one individual or class.

If NVOCC service contracting is permitted, there will be more competitive options for NITL members. There may be additional short and long term benefits.

NITL noted that some commenters raised concerns about the lack of assets for some NVOCCs. They suggested that this might be addressed by an enhanced financial security requirement for NVOCCs seeking to contract.

Lastly, NITL presented me with a Statement of Common Principles Concerning a Section 16 Exemption for NVOCCs agreed to by themselves, the National Customs Brokers and Forwarders Association of America, and the Transportation Intermediaries Association. They briefly described the seven principles contained therein.